

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5007 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?
1 to 5 No

JAGRUT JANTA GENERAL LABOUR UNION

Versus

INSPECTOR UNDER MINIMUM WAGES ACT,1948 & GOVT LABOUR OFFICER

Appearance:

MR NR SHAHANI for Petitioner
Mr.P.G.Desai,learned G.P. and Mr.D.A.Bambhania,
learned Addl.G.P. and Ms.V.K.Parekh,learned A.G.P
for respondents Nos.1 and 2.
Mr.S.I.Nanavati, senior counsel, with
Mr.Deepak Shukla for Respondent No. 3

CORAM : MR.JUSTICE M.R.CALLA

Date of decision: 12/03/98

ORAL JUDGEMENT

Through this Petition, implementation of the Notification, which had been issued with regard to revising the minimum wages,has been prayed for. Till this time, the Notifications itself were under challenge

before this Court. Special Civil Applications challenging these Notifications have been dismissed only today and the stay orders against the prosecution has been vacated.

The petition has been opposed by Mr.S.I. Nanavati, senior counsel, on the grounds that the petitioner -Union is not a recognized Union and, therefore, it has no locus standi, no writ can be issued against Mahalaxmi Fabric Mills Ltd. as it is not an 'authority' within the meaning of Article 12 of the Constitution of India and that the petitioner has alternative remedy,

The Notifications revising the minimum wages have been issued under the provisions of the Minimum Wages Act. It is the duty of the respondent - Company to follow the statutory obligations and, therefore, the respondent - Company cannot get rid of the implementation of this Notification by saying that the writ cannot be issued against it. Inspector under the Minimum Wages Act is an 'authority' as well as the Commissioner of Labour. In case, the respondent - Company does not implement the Notification it is liable to be prosecuted. The members of the petitioner - Union were entitled to minimum wages under the Notification, whether they are members of a registered union or not, or whether they are members of any recognized Union or not, and even if they are members of no Union. Therefore, the objection of respondent Company against the petitioner Union is of no legal consequence whatsoever. There is no question of throwing the petitioner - Union to alternative remedy when it is ex facie clear that the appropriate Government has issued the statutory Notification under the Minimum Wages Act and it is the statutory obligation of the respondent -Company to implement the Notification and pay the minimum wages to its employees accordingly. Therefore, the plea of alternative remedy cannot come in the way of the petitioner to seek a writ of mandamus against the respondent - Company to give effect and act upon the Notification issued by the Government. I also do not find that there is any disputed question of fact. Unless there is a genuine dispute with regard to facts, there is no question of throwing the petition. Petitions filed under Articles 226 and 227 of the Constitution before this Court cannot be thrown out merely because some illusory dispute is created by some party.

The Notification dated 25.4.97, was challenged before this Court by various employers and Federations of Employers in Special Civil Application No.12017 of 1994

and other allied matters and all those Special Civil Applications have been dismissed today and the interim orders passed in those cases have also been vacated. Thus, the impugned Notification is to be given effect to forthwith and the petitioner is entitled to the direction to implement the Notification dated 25.4.97 with effect from due date and the concerned employees shall be entitled to all consequential benefits. However, in the facts of the present case, it is also directed that the Inspector under the Minimum Wages Act, 1948 may proceed in accordance with law. This Special Civil Application succeeds and the Rule is made absolute accordingly. No order as to costs.